

Appln. No. 09/744,654
Amdt. dated March 14, 2006
Reply to Office action of July 28, 2005

Amendments to the Sequence List:

Please enter the attached Sequence Listing, numbered
as page 1.

Appendix A: Sequence Listing

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REMARKS

The present supplemental amendment is responsive to a telephone interview between the examiner and the undersigned on March 10, 2006. Claims 123-126 and 128-131 presently appear in this case.

The examiner pointed out that no sequence list had been filed with this case but that four primers were listed on page 40 of the specification. SEQ ID Nos, as supported in the present specification, have been inserted.

Applicants have added into the present specification a paper copy Sequence Listing section according to 37 C.F.R. §1.821(c) as new page 1. Furthermore, attached hereto is a 3 1/2" disk containing the "Sequence Listing" in computer readable form in accordance with 37 C.F.R. §1.821(e).

The following statement is provided to meet the requirements of 37 C.F.R. §1.821(f) and 1.821(g) §1.825(a) and 1.825(b).

I hereby state, in accordance with 37 C.F.R. §1.825(a), that the amendments included in the substitute sheets of the sequence listing are believed to be supported in the application as filed and that the sheets of the sequence listing are not believed to include new matter.

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I hereby further state, in accordance with 37 C.F.R. §1.825(b), that the attached copy of the computer readable form is the same as the attached paper copy of the sequence listing.

Under U.S. rules, each sequence must be classified in <213> as an "Artificial Sequence", a sequence of "Unknown" origin, or a sequence originating in a particular organism, identified by its scientific name.

Neither the rules nor the MPEP clarify the nature of the relationship which must exist between a listed sequence and an organism for that organism to be identified as the origin of the sequence under <213>.

Hence, counsel may choose to identify a listed sequence as associated with a particular organism even though that sequence does not occur in nature by itself in that organism (it may be, e.g., an epitopic fragment of a naturally occurring protein, or a cDNA of a naturally occurring mRNA, or even a substitution mutant of a naturally occurring sequence). Hence, the identification of an organism in <213> should not be construed as an admission that the sequence *per se* occurs in nature in said organism.

Similarly, designation of a sequence as "artificial" should not be construed as a representation that the sequence has no association with any organism. For example, a primer or probe may be designated as "artificial" even though it is

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necessarily complementary to some target sequence, which may occur in nature. Or an "artificial" sequence may be a substitution mutant of a natural sequence, or a chimera of two or more natural sequences, or a cDNA (i.e., intron-free sequence) corresponding to an intron-containing gene, or otherwise a fragment of a natural sequence.

The examiner should be able to judge the relationship of the enumerated sequences to natural sequences by giving full consideration to the specification, the art cited therein, any further art cited in an IDS, and the results of his or her sequence search against a database containing known natural sequences.

Further, the examiner has required the insertion of the term "human" before "stem cells" in claim 123. Claim 123 has been so amended.

In addition, in reviewing the allowed claims, both the examiner and applicants noted an anomalous presence of "CD38^{-/low}" in claim 125. This was inserted in the amendment of September 13, 2004, when applicants were simply trying to rewrite claim 125 into independent claim form. The reference to CD38 was added inadvertently as it never appeared in any of the claims from which claim 125 ultimately depended. Accordingly, it was agreed between the examiner and the undersigned that such reference could be deleted.

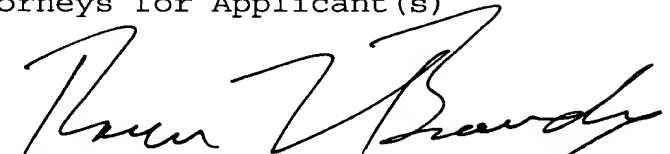
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The present amendment complies with 37 CFR 1.111(a)(2)(i)(B) and (C) as this supplemental amendment is clearly limited to adoption of the examiner suggestions and placement of the application in condition for allowance. It is submitted that all of the claims now present in the case clearly define over the references of record and fully comply with 35 U.S.C. §112. Entry of this amendment and allowance of this case, in accordance with the agreement at the above-identified interview, are therefore earnestly solicited.

Respectfully submitted,

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Appendix A